

REMARKS

The above-identified patent application has been amended and Applicants respectfully request the Examiner to reconsider and again examine the claims as amended.

Claims 9 to 28 were pending in the application. Claims 9 to 28 were rejected. Claims 10-15, 17-20, 22, 25 and 26 are amended herein. Claim 29 was added. Claim 9 was cancelled and Claims 1 - 8 were previously cancelled.

Claims 9-24 were rejected under 35 U.S.C. 112 due to Claim 9 being indefinite. Applicants have cancelled Claim 9 and added new Claim 29 to replace Claim 9 and taken the Examiners comments into consideration in Claim 29.

Claims 9-22 and 24-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Noda et al. in view of Aarnio. Claim 23 was rejected under 35 U.S.C. 103(a) as being unpatentable over Noda et al. in view of Aarnio and further in view of Reed.

Applicants direct the Examiner to page 8, lines 6-24 where applicants teach that storage medium as used by Applicants is a physical medium and directed toward statutory subject matter where the storage medium is used to store programs to control handheld devices as well as servers or computers and that is is clear that the storage medium is directed toward statutory subject matter.

Applicants have amended the claims in view of the Examiners comments and remarks to more clearly distinguish the present invention over the cited art. Applicants wishes to thank the Examiner for his detailed Office Action and comments.

Applicants have cancelled Claim 9 and replaced Claim 9 with new Claim 29 taking the Examiner's comments into consideration to more precisely claim the present invention. Applicants have made it clear that Applicants are using an image to search for similar images and

not metadata or other text associated with the image to perform the search. Applicants have positively recited in the claim that a “content based retrieval technique” is used to search for similar images as the captured image as taught in the specification and not metadata or other associated text that may be part of an image file.

Applicants respectfully submit that Aarnio does not anywhere hint at the idea of searching an image using a content based retrieval technique across the internet. It does use the internet for communication of images, but Aarnio using an OCR server that converts the received digital image to binary text data and then uses the binary text to compare with the binary text from other images. The latter does not suggest searching an image using a content based image retrieval technique.

For the reasons discussed above, Applicants submit that Claim 29 is distinct over Noda et al. in view of Aarnio, since the cited references neither describes nor suggests the claimed embodiment where resulting relevant images are found by searching images in a database using a content based image retrieval technique and not text or other features associated with the images.

Claims 10 - 24 depend from and thus include the limitations of Claim 29 as well as claim further features. Thus, Applicants submit that Claims 10 - 24 are patentably distinct over the cited references at least for the reasons discussed above.

Applicants submit that Claim 25 and 26 - 28 are also distinct over Noda et al. in view of Aarnio for the reasons discussed above.

Applicants have submitted herewith a Petition for an Extension of Time for three months with authorization to charge Daly, Crowley, Mofford & Durkee, LLP Deposit Account No. 50-0845 to cover the costs of the petition.

The Examiner is respectfully invited to telephone the undersigning attorney if there are any questions regarding this Amendment or this application.

The Assistant Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 500845, including but not limited to, any charges for extensions of time under 37 C.F.R. §1.136.

Accordingly, re-examination and reconsideration are requested in view of the above amendment and remarks.

Respectfully submitted,

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